

1 SENATE BILL 57

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

4 Peter Wirth

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10 AN ACT

11 RELATING TO TAXATION; REQUIRING COMBINED REPORTING FOR A
12 RESTAURANT THAT IS A UNITARY CORPORATION.

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14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

15 SECTION 1. Section 7-2A-8.3 NMSA 1978 (being Laws 1983,
16 Chapter 213, Section 12, as amended) is amended to read:

17 "7-2A-8.3. COMBINED RETURNS.--

18 A. Except as provided in Subsections B and C of
19 this section, a unitary corporation that is subject to taxation
20 under the Corporate Income and Franchise Tax Act and that has
21 not previously filed a combined return pursuant to this section
22 or a consolidated return pursuant to Section 7-2A-8.4 NMSA 1978
23 may elect to file a combined return with other unitary
24 corporations as though the entire combined net income were that
25 of one corporation [~~provided, however, that~~].

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1 B. For taxable years beginning on or after January
2 1, 2014, a unitary corporation that provides retail sales of
3 goods in a facility of more than thirty thousand square feet
4 under one roof in New Mexico shall file a combined return with
5 other unitary corporations as though the entire combined net
6 income were that of one corporation. [~~The return filed under~~
7 ~~this method of reporting~~]

8 C. For taxable years beginning on or after January
9 1, 2016, a restaurant that is a unitary corporation shall file
10 a combined return with other unitary corporations as though the
11 entire combined net income were that of one corporation.

12 D. A combined return filed pursuant to this section
13 shall include the net income of all the unitary corporations.
14 Transactions among the unitary corporations may be eliminated
15 by applying the appropriate rules for reporting income for a
16 consolidated federal income tax return. Any corporation that
17 has filed an income tax return with New Mexico pursuant to
18 Section 7-2A-8.4 NMSA 1978 shall not file pursuant to this
19 section unless the secretary gives prior permission to file on
20 a combined return basis.

21 [~~B.~~] E. Once corporations have reported net income
22 through a combined return for any taxable year, they shall file
23 combined returns for subsequent taxable years, so long as they
24 remain unitary corporations, unless the corporations elect to
25 file pursuant to Section 7-2A-8.4 NMSA 1978 or unless the

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1 secretary grants prior permission for one or more of the
2 corporations to file individually.

3 ~~[G.]~~ F. For taxable years beginning on or after
4 January 1, 1993, no unitary corporation once included in a
5 combined return may elect, or be granted permission by the
6 secretary, for any subsequent taxable year to separately
7 account pursuant to Paragraph (4) of Subsection A of Section
8 7-2A-8 NMSA 1978.

9 ~~[D.]~~ G. Notwithstanding Subsection ~~[A]~~ B of this
10 section, a unitary corporation shall not be required to file a
11 combined return pursuant to ~~[this section]~~ that subsection if
12 ~~[that]~~ the unitary corporation:

13 (1) has operations in New Mexico at facilities
14 that do not provide retail sales of goods; and

15 (2) employs at least seven hundred fifty
16 employees in New Mexico at such facilities.

17 H. As used in this section, "restaurant" means a
18 coffee shop, cafeteria or other eating establishment that gives
19 or offers for sale food to the public, patrons or employees,
20 including kitchens and catering facilities in which food is
21 prepared on the premises for serving elsewhere or a bar area
22 within or attached to the premises. "Restaurant" does not
23 include a private or public school cafeteria."

24 SECTION 2. APPLICABILITY.--The provisions of this act
25 apply to taxable years beginning on or after January 1, 2016.

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SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 2016.